

STATE OF MICHIGAN
COURT OF APPEALS

SATORI CORPORATION,

Plaintiff-Appellee,

v

FORT GROUP HOLDINGS, L.L.C., and RABIH
KOUNINI,

Defendants,

and

HASSAN BAZZI, a/k/a HASSAN BASSI,

Defendant-Appellant.

UNPUBLISHED

June 19, 2014

No. 314126

Wayne Circuit Court

LC No. 12-004141-CH

Before: O'CONNELL, P.J., and FITZGERALD and MARKEY, JJ.

PER CURIAM.

Defendant-appellant appeals as of right the trial court's order denying his motion to set aside a default judgment in favor of plaintiff. We affirm.

The underlying dispute in this case concerns priorities on a mortgage. Plaintiff and appellant separately loaned money to defendant Fort Group Holdings for the purchase of certain real property and, in return, received mortgages on that property. Fort Group Holdings defaulted on both mortgages. Plaintiff foreclosed on its mortgage, successfully bid on the property at foreclosure sale, and, after the redemption period expired, brought this action to quiet title against Fort Group Holdings and defendant-appellant. Appellant did not respond to the complaint, and the trial court entered a default judgment. Appellant subsequently filed a motion to set aside the default judgment. The trial court denied the motion, and defendant-appellant now appeals.

We review the trial court's ruling on the motion to set aside the default judgment for an abuse of discretion. *Amco Builders & Developers, Inc v Team Ace Joint Venture*, 469 Mich 90, 97; 666 NW2d 623 (2003). "[A]lthough the law favors the determination of claims on the merits, it has also been said that the policy of this state is generally against setting aside defaults

and default judgments that have been properly entered.” *Alken-Ziegler, Inc v Waterbury Headers Corp*, 461 Mich 219, 229; 600 NW2d 638 (1999) (citations omitted).

MCR 2.603(D)(1) requires a party seeking to set aside a default judgment to satisfy two distinct requirements: (1) good cause for the failure to respond to the complaint, and (2) a meritorious defense. A movant under MCR 2.603(D)(1) may show good cause by establishing any of the following: “(1) a substantial defect or irregularity in the proceedings upon which the default was based, (2) a reasonable excuse for failure to comply with the requirements which created the default, or (3) some other reason showing that manifest injustice would result from permitting the default to stand.” *Shawl v Spence Bros, Inc*, 280 Mich App 213, 221; 760 NW2d 674 (2008) (citations and quotation marks omitted).

In this case, we find no abuse of discretion in the trial court’s denial of appellant’s motion to set aside the default judgment. The court held a hearing on defendant-appellant’s motion. At the hearing, the parties presented conflicting arguments regarding whether the service of process in this case presented good cause for setting aside the default judgment. The trial court found that plaintiff attempted to serve the process papers at the house defendant-appellant listed as his residence in a recorded mortgage document, that defendant-appellant’s brother received the papers at that house (which defendant-appellant owned), and that plaintiff achieved alternative service as authorized by court order in response to difficulties in serving defendant-appellant personally. The record supports the trial court’s conclusion that the service of process was sufficient to withstand defendant-appellant’s motion.

Given our conclusion that the trial court was within its discretion in determining that defendant-appellant failed to establish good cause to set aside the default judgment, we need not address whether defendant-appellant presented a meritorious defense.

Affirmed.

/s/ Peter D. O’Connell
/s/ E. Thomas Fitzgerald
/s/ Jane E. Markey